

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JOSE SOCORRO CHIPRES MADRIZ,

Case No. 3:22-cv-5796

Plaintiff,

vs.

COMPLAINT OF PLAINTIFF

UNITED STATES OF AMERICA and EC  
COMPANY,

Defendants.

COMES NOW Plaintiff Jose Socorro Chipres Madriz and alleges and pleads as follows:

**I. JURISDICTION AND VENUE**

1.1 The claims herein against the United States are brought in U.S. District Court pursuant to 28 U.S.C. §1346(b), and 28 U.S.C. §2671 *et seq.*, for money damages as compensation for personal injuries that were caused by the negligent acts and omissions of employees or agents of the United States while acting within the scope of their offices, employment or agency, under circumstances where the United States, if a private person, would be liable to Plaintiff in accordance with the laws of the State of Washington.

1.2 The claims herein against EC Company are brought in U.S. District Court pursuant to 28 U.S.C. §1367(a), for money damages as compensation for personal injuries that

COMPLAINT - 1

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1 were caused by the negligent acts and omissions of employees or agents of EC Company while  
2 acting within the scope of their employment or agency, under circumstances that make those  
3 actions part of the same case or controversy as the claims against the United States.

4 1.3 Venue is proper in that all, or a substantial part of the acts, omissions and injuries  
5 forming the basis of these claims occurred in Cowlitz County, in the Western District of  
6 Washington. 28 § U.S.C. 1402(b).

7 1.4 Plaintiff has fully complied with the provisions of 28 U.S.C. §2675 of the Federal  
8 Tort Claims Act, as further described in Section III below.

## 9 **II. PARTIES**

10 2.1 Plaintiff is a resident of Vancouver, Washington.

11 2.2 The United States of America is a governmental entity, and is responsible by law  
12 for the tortious conduct of its employees under 28 U.S.C. §2671 *et seq.* The United States  
13 Department of Energy is an agency of the United States Government and the United States is the  
14 proper defendant in suits under the Federal Tort Claims Act for the negligence of federal  
15 employees in the course and scope of their employment. Bonneville Power Administration  
16 (“BPA”) is a federal power marketing administration within the Department of Energy.

17 2.3 EC Company is now and has been at all material times hereto an Oregon  
18 corporation doing business in the state of Washington, County of Cowlitz. EC Company does  
19 business under the assumed business name of EC Electric (“EC”).

## 20 **III. SERVICE OF CLAIM FOR DAMAGE, INJURY OR DEATH**

21 3.1 Less than two years after the date Plaintiff’s claim arose, Plaintiff properly served  
22 a Claim for Damage, Injury or Death (Standard Form 95) on the U.S. Department of Energy and  
23 BPA via March 15, 2022, mailing of the claim forms and supporting documentation to the US

1 Department of Energy General Counsel's Washington, DC, office, and to the BPA General  
2 Counsel's office in Portland, Oregon.

3 3.2 More than six months have elapsed since service of the various Claims for  
4 Damage, Injury or Death.

5 3.3 The Department of Energy/BPA, mailed, via certified mail, a letter dated August  
6 23, 2022, denying Plaintiff's claims.

7 3.4 All requirements for the filing of the Claim for Damage, Injury or Death under the  
8 Federal Tort Claims Act have been fulfilled and this matter is properly before the Court. This  
9 lawsuit is filed prior to the expiration of six months from the date of the Department of Energy's  
10 denial letter, pursuant to 28 U.S.C. §2401.

11 **IV. FACTS**

12 4.1 The incident that is the subject of this lawsuit (hereinafter "the incident") occurred  
13 on or about September 12, 2020, at a Department of Energy/BPA electrical substation in  
14 Longview, Washington, at or near 4029 Industrial Way.

15 4.2 On the date at issue, Plaintiff was working for a temporary employment agency,  
16 Resource Management Associates ("RMA"), under the direction of personnel from the  
17 Department of Energy/BPA and EC Electric, as part of a construction crew at the Longview BPA  
18 substation.

19 4.3 At approximately 7:30 a.m., the construction crew commenced a "J1 briefing"  
20 ("the briefing") in preparation for the removal of several pieces of equipment- 230 kV  
21 disconnects- from the structures those disconnects had been attached to, using a crane. The  
22 disconnects were General Electric Model RD-101, approximately 72 inches tall, 18 inches wide  
23 at their base, and weighed approximately 1800 lbs.

1           4.4     The crew consisted of several individuals who were employees of BPA, including  
2 (all as labeled in BPA's incident investigation report): Foreman #1, Foreman #3, Journeyman  
3 Electrician #1, Journeyman Electrician #2, and Journeyman Electrician #3. Also on the crew  
4 were several individuals who were employees of EC, including: Contract Journeyman Electrician  
5 #1 and Contract Journeyman Electrician #2. Finally, the crew also included individuals who  
6 were employees of RMA, including: an equipment operator, and Plaintiff, who was a contract  
7 laborer.

8           4.5     The briefing was led by BPA Journeyman Electrician #1. The briefing did not  
9 include any discussion of specific roles the crew members would be expected to fulfill while  
10 rigging the disconnects, nor hazards unique to the load being rigged, despite the fact that the  
11 disconnects' physical characteristics suggested shifting of the load/tipping was a credible threat.

12           4.6     While various crew members would later take on certain roles (such as the safety  
13 watcher and signaler), no individual would ever be designated to act in a recognized supervisory  
14 capacity during the rigging activities. Responsibilities for completing certain tasks that would  
15 later be a factor in the incident (e.g., installing lag screws/bolts to secure disconnects to cribbing,  
16 detaching rigging apparatus from the disconnects) were not assigned during or subsequent to the  
17 briefing. During the activities at issue in this lawsuit, the individuals who ultimately took on  
18 roles as safety watchers were BPA Journeyman Electrician #1 and BPA Journeyman Electrician  
19 #2. BPA Foreman #1 and BPA Foreman #3 did not supervise the lifting and setting of the  
20 disconnect that caused Plaintiff's injuries.

21           4.7     Prior to the crew engaging in their work, there was insufficient information within  
22 BPA's training and safety curriculum to equip crews with processes and knowledge that would  
23 facilitate safe and successful performance of rigging activities. No available BPA documents,

1 work standards, or safety manuals defined rigging procedures or associated roles and  
2 responsibilities, nor did they establish minimum standards or fundamentals for engaging in  
3 rigging activities. Any rigging-related BPA courses crew members had taken prior to this  
4 incident did not cover rigging fundamentals (including restraining detached rigging gear away  
5 from cribbing and equipment when raising the hook), and instead built upon an assumed level of  
6 worker knowledge and experience.

7       4.8 Prior to the crew engaging in their work on the date of Plaintiff's injury incident,  
8 a similar incident occurred at a different BPA substation on August 5, 2020, in which three  
9 similar disconnects were toppled by a forklift. Knowledge of this prior incident would have  
10 increased the likelihood that the BPA and EC leadership of the crew Plaintiff was working on  
11 would recognize the potential for the disconnect to topple, and would have likely altered their  
12 approach on the date in question. No safety alert or other form of communication was issued by  
13 BPA to notify crews performing disconnect replacement activities of the August 5, 2020  
14 incident.

15       4.9 At approximately 10:30 a.m. on the date of Plaintiff's injury incident, the  
16 disconnect was lifted from its structure with a crane, using a four-sling rigging configuration,  
17 featuring two slings on opposite sides of the disconnect's narrow frame. The RMA equipment  
18 operator successfully set the disconnect down on two parallel runs of wood cribbing. The  
19 equipment operator continued to lower the hook to the point where it no longer bore the  
20 disconnect's weight.

21       4.10 As Plaintiff (who was positioned on the east side of the disconnect) began  
22 installing lag screws/bolts (to connect the disconnect frame to the wood cribbing) on the east side  
23 of the disconnect, EC Contract Journeyman Electrician #1 (who was positioned on the west side

1 of the disconnect) turned away from the disconnect to speak with EC Contract Journeyman  
2 Electrician #2 and BPA Journeyman Electrician #3, who were descending on a nearby lift.

3 4.11 After speaking with the other crew members, EC Contract Journeyman  
4 Electrician #1 turned back towards the disconnect. EC Contract Journeyman Electrician #1  
5 assumed that Plaintiff had installed lag screws/bolts on both sides of the disconnect. Based  
6 solely on that mistaken assumption, EC Contract Journeyman Electrician #1 began detaching the  
7 slings from the disconnect's west side. While doing so, he did not notice that the lag  
8 screws/bolts had not yet been installed on the west side.

9 4.12 Prior to and after EC Contract Journeyman Electrician #1 began to detach the  
10 slings from the disconnect's west side, there were no communications seeking validation that all  
11 four lag screws/bolts were installed connecting the disconnect frame to the cribbing, nor any  
12 communications seeking validation that the rigging gear was clear of the disconnect prior to  
13 raising the hook.

14 4.13 EC Contract Journeyman Electrician #1 made a hand signal for the operator to  
15 raise the hook. Plaintiff made no such signal. The RMA equipment operator believed he had  
16 been given a "raise hook" hand signal, indicating that the hook and rigging could be raised clear  
17 of the disconnect.

18 4.14 The RMA equipment operator, unable to view the west side of the disconnect  
19 from the crane cab, considered calling out to Plaintiff and EC Contract Journeyman Electrician  
20 #1 to remind them to hold the slings away from the disconnect. The RMA equipment operator  
21 decided against doing so, because he'd had recent bad interactions in the same crew where a  
22 crew member had responded in an unreceptive manner to the RMA equipment operator's  
23 suggestions on how to do some part of the work.

1           4.15 Prior to Plaintiff's injury incident, BPA had a practice of placing equipment  
2 operators in the role of supporting work crews rather than giving the operators explicit authority  
3 over the crews when it came to performance of rigging activities, leaving an operator's ability to  
4 ensure safe rigging practices dependent on individual crew members' willingness to accept  
5 direction.

6           4.16 The RMA equipment operator began raising the hook on the crane at  
7 approximately 10:51 a.m. EC Contract Journeyman Electrician #1 was not restraining the two  
8 slings on the west side of the disconnect so as to ensure that the slings were sufficiently clear.  
9 As the crane hook raised the slings, one or both slings on the west side snagged on the  
10 disconnect's frame. The RMA equipment operator felt the line become taut, and repositioned the  
11 controls to stop the hook, but upward motion of the hook didn't immediately cease due to the  
12 crane's operating characteristics. The force of the crane imparted to the west side of the  
13 disconnect due to the snag, coupled with the absence of lag screws/bolts on the west side, and the  
14 disconnect's high center of gravity, resulted in the disconnect leaning eastward, the lag  
15 screws/bolts on the east side pulling partially out of the cribbing and bending, and the disconnect  
16 toppling eastward.

17           4.17 EC Contract Journeyman Electrician #1 observed the top of the disconnect  
18 moving and yelled out a warning. At that time Plaintiff, EC Contract Journeyman Electrician #2,  
19 and BPA Journeyman Electrician #3 were on the east side of the disconnect. The electricians  
20 were able to evade the disconnect as it toppled. Plaintiff, who was immediately adjacent to the  
21 disconnect and had been leaning over installing lag screws/bolts, fell while attempting to evade.  
22 The top of the double glass portion of the disconnect fell onto Plaintiff's legs, causing significant  
23 injuries.



1 **V. LIABILITY**

2 5.1 The United States was the property owner acting as its own general contractor for  
3 the work being done. As such, it had a duty to provide Plaintiff with a safe workplace and  
4 comply with relevant federal, state and local regulations.

5 5.2 The United States is responsible for the tortious acts, omissions, and conduct of  
6 its employees and agents acting in the course and scope of their employment or agency, under  
7 the Federal Tort Claims Act; under the Act the United States is liable because, if the United  
8 States were a private person, it would be liable to Plaintiff in accordance with the laws of the  
9 State of Washington.

10 5.3 The employees or agents of the United States involved in designing, executing,  
11 and supervising the project at issue were negligent under Washington law, in that they failed in  
12 their duty to Plaintiff to use reasonable care and competence in their design, preparation,  
13 execution and supervision of the substation equipment replacement activities at issue. The  
14 negligent acts or omissions include but are not limited to: inadequate implementation and  
15 utilization of structured processes for ensuring that rigging tasks were safely planned and  
16 executed; inadequate briefing/instruction/training provided to the crew regarding hazards unique  
17 to the load being rigged; inadequate briefing/instruction/training provided to the crew regarding  
18 rigging fundamentals and basic procedures; inadequate briefing/instruction/training provided to  
19 the crew regarding prior similar incidents; inadequate supervision/oversight during rigging  
20 activity; failure to adequately communicate and/or facilitate communication regarding the status  
21 of lag screw/bolt installation prior to rigging gear being detached from the disconnect, and the  
22 status of rigging gear being restrained clear of the disconnect prior to hook lift; failure to ensure

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1 rigging gear was restrained clear of the disconnect prior to hook lift; failure to provide safe  
2 materials upon which the disconnect would rest (wood cribbing).

3         5.4     The employees or agents of the United States involved in designing, executing,  
4 and supervising the work at issue were negligent under Washington law, in that they exercised  
5 control over the details of the substation equipment replacement on the jobsite, and within the  
6 scope of that control failed in their duty to Plaintiff to use reasonable care in their exercise of that  
7 control. The negligent acts or omissions include but are not limited to: those listed in paragraph  
8 5.3 of this Complaint; failing, after exercising control over the details of the substation  
9 equipment replacement, in their duty to Plaintiff to keep the worksite reasonably safe; by failing  
10 to properly ensure compliance with safe rigging and other work practices; by failing to adhere to  
11 applicable state and federal regulations regarding rigging and other worksite safety.

12         5.5     The employees or agents of the United States involved in designing, executing,  
13 and supervising the work at issue were negligent under Washington law, in that they failed in  
14 their duty to use reasonable care in the supervision of the on-site employees or agents, and other  
15 contractors, who exercised control over the details of the substation equipment replacement on  
16 the jobsite at issue.

17         5.6     EC is responsible/vicariously liable for the tortious acts, omissions, and conduct  
18 of its employees and agents acting in the course and scope of their employment or agency under  
19 Washington law.

20         5.7     The employees or agents of EC involved in designing, executing, and supervising  
21 the project at issue were negligent under Washington law, in that they failed in their duty to  
22 Plaintiff to use reasonable care and competence in their design, preparation, execution and  
23 supervision of the substation equipment replacement activities at issue, while exercising control

1 over the details of the work being done. The negligent acts or omissions include but are not  
2 limited to: inadequate implementation and utilization of structured processes for ensuring that  
3 rigging tasks were safely planned and executed; inadequate briefing/instruction/training provided  
4 to the crew regarding hazards unique to the load being rigged; inadequate  
5 briefing/instruction/training provided to the crew regarding rigging fundamentals and basic  
6 procedures; inadequate briefing/instruction/training provided to the crew regarding prior similar  
7 incidents; inadequate supervision/oversight during rigging activity; failure to adequately  
8 communicate and/or facilitate communication regarding the status of lag screw/bolt installation  
9 prior to rigging gear being detached from the disconnect, and the status of rigging gear being  
10 restrained clear of the disconnect prior to hook lift; failure to ensure rigging gear was restrained  
11 clear of the disconnect prior to hook lift; failure to provide safe materials upon which the  
12 disconnect would rest (wood cribbing).

13         5.8     The employees or agents of EC involved in designing, executing, and supervising  
14 the work at issue were negligent under Washington law, in that they exercised control over the  
15 details of the substation equipment replacement on the jobsite, and within the scope of that  
16 control failed in their duty to Plaintiff to use reasonable care in their exercise of that control. The  
17 negligent acts or omissions include but are not limited to: those listed in paragraph 5.7 of this  
18 Complaint; failing, after exercising control over the details of the substation equipment  
19 replacement, in their duty to Plaintiff to keep the worksite reasonably safe; by failing to properly  
20 ensure compliance with safe rigging and other work practices; by failing to adhere to applicable  
21 state and federal regulations regarding rigging and other worksite safety.

22         5.9     The employees or agents of EC involved in designing, executing, and supervising  
23 the work at issue were negligent under Washington law, in that they failed in their duty to use

1 reasonable care in the supervision of the on-site employees or agents, and other contractors, who  
2 exercised control over the details of the substation equipment replacement on the jobsite at issue.

3 **VI. DAMAGES**

4 6.1 As a direct and proximate result of the tortious acts, omissions, and conduct of the  
5 agents or employees of the United States and EC, Plaintiff Jose Chipres Madriz has suffered  
6 injuries and damages which include:

7 A. General (non-economic) damages, including but not limited to:

- 8 1. Past and future physical injuries, including pain and suffering;  
9 2. Past and future mental and emotional injuries;  
10 3. Past and future disabilities; and  
11 4. Past and future loss of enjoyment of life.

12 B. Special (economic) damages, including but not limited to:

- 13 1. Past and future medical, rehabilitation, and psychological  
14 treatment and related expenses; and  
15 2. Past and future loss of earnings and impairment of earning  
16 capacity.

17 C. Other damages as authorized by law.

18 D. Costs and attorney fees as authorized by law.

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**VII. RELIEF REQUESTED**

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, for general/non-economic, special/economic, loss of consortium, and other damages as allowed by law, for attorney's fees and costs incurred in maintaining this action, for prejudgment interest and for such other, and further relief as the Court deems just.

DATED this 19 day of October, 2022.

  
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